IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.3001 of 1998

Between:

1 C.S.Mahalakshmi W/o Purnachandara Rao,
Junior Asst. DBMP College for Women ,
Secunderabad.
2 A. S. Deepakala W/o Praveenkumar,
Junior Asst. DBMP College for Women ,
Secunderabad.

...PETITIONERS

AND

1. The Secretary, State of Andhra Pradesh, Higher Education Department, Secretariat Buildings, Hyderabad.
2. The Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad.
3. The Secretary/Correspondent, D.B.M.P.College for Women, Secunderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus to declare as illegal, arbitrary and discriminations in issuing the proceedings In R.C.No.608/PC.34/98 dated 28/04/1995 of the respondent No.2.

Counsel for the Petitioners: MR.V.JOGAIAH SARMA

Counsel for the Respondents: MR.G.VIDYASAGAR

G.P. for Higher Education

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.3001 of 1998

ORDER:

Heard Sri V.Jogaiah Sarma, learned counsel for the petitioners and also the learned Government Pleader for Higher Education.

The petitioners herein, who are working as Junior Assistants with the third respondent herein, filed this Writ Petition *inter alia*, seeking to assail the impugned proceedings in R.C.No.608/PC.34/93, dated 28.04.1995, passed by the second respondent herein, in admitting the petitioners to the grant-in-aid, from the date of issuance of the said proceedings.

The main complaint of the petitioners is that having regard to the orders already given by the first respondent, in G.O.Ms.No.205 Education (CE1-1) Department, dated 30.05.1992, whereunder, the first respondent has permitted their appointments and admitted them in grant-in-aid with effect from 24.09.1990, i.e., the date on which the college was admitted into grant-in-aid. Therefore, the question of taking any other date by the second respondent is purely impermissible. There is no dispute of the fact that the petitioners are working as Junior Assistants and on due

recommendation and the procedure followed, the final orders were passed by the first respondent in the aforesaid G.O.Ms.No.205, dated 30.05.1982, admitting them into grant-in-aid, with effect from 24.09.1990. Whereas, the second respondent herein, under the impugned proceedings, which is contrary to G.O.Ms.No.205, dated 30.05.1982, without any prior approval or any introduction by the first respondent, issued the impugned orders varying the said date and restricting such admission or appointment of the petitioners from the date of issuance of the said proceedings dated 28.04.1995.

No counter-affidavit has been filed nor there is any explanation forthcoming on behalf of the respondents to select any other date or take a decision in regard to the date of admission into grant-in-aid.

Be that as it may, having regard to the fact that the Government has already taken decision, which is binding on the respondents, it cannot be said that any discretion or power left with the second respondent to vary with the date of admission and come to its own conclusion or which would amount to any admission into grant-in-aid from the date of issuance of proceedings of the second respondent.

In the circumstances, the impugned proceedings are squarely under the teeth of the proceedings issued by the first respondent in selecting the date contrary to the one, which has already been admitted in the aforesaid G.O.Ms.No.205, dated 30.05.1992.

Accordingly, the Writ Petition is allowed and the appointment and the admission of the petitioners into grant-in-aid, shall be taken as referred from 24.09.1990. No costs.

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(B.PRAKASH RAO, J)

15th December 2004

RRB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday,

the Fifteenth day of December 2004.

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, State of Andhra Pradesh, Higher Education Department, Secretariat Buildings, Hyderabad.
2. The Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad.
3. The Secretary/Correspondent, D.B.M.P.College for Women, Secunderabad.
4. Two CCs to G.P. for Higher Education, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.